

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

IMPLICIT, LLC

v.

HUAWEI TECHNOLOGIES USA, INC.,  
ET AL

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Case No. 6:17-cv-182- JRG

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**MINUTES FOR FINAL PRETRIAL CONFERENCE  
HELD BEFORE U. S. DISTRICT JUDGE RODNEY GILSTRAP  
OCTOBER 3, 2018**

**OPEN: 9:02 a.m.**

**ADJOURN: 4:45 p.m.**

ATTORNEYS FOR PLAINTIFF:	(See attached)
ATTORNEYS FOR DEFENDANT:	(See attached)
LAW CLERKS:	Catherine Owens Hao J. Wu
COURT REPORTER:	Shelly Holmes, CSR-TCRR
COURTROOM DEPUTY:	Jan Lockhart
Time	Minutes
9:02 a.m.	Counsel announced ready for hearing.

Time	Minutes
9:07 a.m.	The Court heard argument on the Opposed Sealed Patent Motion to Strike Dr. Ugone's Reliance on Late-Produced Documents and Undisclosed Theories Pursuant to Federal Rules of Civil Procedure 26 and 37 filed by Palo Alto Networks, Inc. (Dkt. No. 172). Mr. Gibson argued on behalf of Defendant. Mr. Hurt argued on behalf of Plaintiff. The Court DENIED the Motion.
9:29 a.m.	The Court heard argument on the Sealed Patent Motion to Exclude Plaintiff Implicit, LLC's Damages-Related Testimony from Dr. Keith Ugone and Dr. Kevin Almeroth Under Federal Rule of Evidence 702 and Daubert filed by Palo Alto Networks, Inc. (Dkt. No. 203). Mr. Jameson argued on behalf of Defendant. Mr. Hurt argued on behalf of Plaintiff.
10:46 a.m.	Recess
11:13 a.m.	Court reconvened. The Court DENIED the Sealed Patent Motion to Exclude Plaintiff Implicit, LLC's Damages-Related Testimony from Dr. Keith Ugone and Dr. Kevin Almeroth Under Federal Rule of Evidence 702 and Daubert filed by Palo Alto Networks, Inc. (Dkt. No. 203).
11:19 a.m.	The Court heard argument on the Sealed Patent Motion for Summary Judgment of Non-Infringement filed by Palo Alto Networks, Inc. (Dkt. No. 201). Mr. Gaudet argued on behalf of Defendant. Mr. Singer argued on behalf of Plaintiff.
12:45 p.m.	Recess.
1:40 p.m.	Court reconvened. The Court ruled on the Sealed Patent Motion for Summary Judgment of Non-Infringement filed by Palo Alto Networks, Inc. (Dkt. No. 201). For the reasons set forth at the hearing, the Court DENIED the motion.
1:41 p.m.	The Court heard argument on the Opposed Sealed Motion to Strike the Rebuttal Expert Report of Dr. Douglas Schmidt Regarding Non-Infringement by Implicit, LLC filed by Plaintiff (Dkt. No. 188). Mr. Hurt argued on behalf of Plaintiff. Mr. Dotson argued on behalf of Defendant. The Court DENIED the motion.
2:09 p.m.	The Court indicated, at the parties' request, that the Motion to Strike (Dkt. No. 180) would be decided on the briefing. The Court heard argument on the Opposed SEALED Motion to Strike the Rebuttal Expert Report of Dr. Samuel Russ Regarding Invalidity filed by Implicit, LLC. (Dkt. No. 187). Mr. Hurt argued on behalf of Plaintiff. Mr. Dotson argued on behalf of Defendant. The Court DENIED the motion in its entirety.
	The Defendant withdrew the Opposed SEALED PATENT MOTION for Partial Summary Judgment Regarding Implicit's Claims for Damages on Products and Services Sold Outside the United States filed by Palo Alto Networks, Inc. (Dkt. No. 177).
2:27 p.m.	Mr. Gaudet addressed outstanding issues. Mr. Davis responded.
2:35 p.m.	Recess until 3 p.m.
3:16 p.m.	Court reconvened. Ms. Snedeker indicated issues with the Plaintiff's trial exhibit had been resolved with the exception of a few issues. Mr. Dotson and Mr. Singer argued as to PTX 460. The Court Ordered that the date be redacted and the objection was withdrawn.

Time	Minutes
3:24 p.m.	Ms. Coleman argued as to Plaintiff's objections to Defendant's exhibits. Implicit withdrew objections to publicly available documents. Ms. Snedeker argued on behalf of Defendant. The Court preadmitted DTX exhibits 60-69; 75, 77-78, 81-82, 87-89, 192, 208, 234, 293, 229, 231, 242; 277, 278, 302, and 504.
	The Court preadmitted the textbooks portions of DTX 72 and 92 to be used by Dr. Schmidt at trial.
	The Court preadmitted the following publicly available documents from licensees of Implicit: DTX: 83, 84, 85, 91, 209, 210, 211, 212, 213, 214, 240, 289, 458, 501, 116, 119, 121, 122, 123 and 124 for the limited purposes discussed at the hearing.
	The Court preadmitted DTX 142-144--E-mails subject to Rule 408 communications.
	File history exhibit objections to Defendant's exhibits argued by Mr. Singer for Plaintiff. Ms. Snedeker argued. The Court preadmitted file histories but the parties are to approach the bench before use
	The Court preadmitted DTX-221 Covenant not to sue with F5.
4:02 p.m.	Recess
4:21 p.m.	Court reconvened. The Court heard argument as to Plaintiff's objections to Implicit pleadings and infringement contentions from prior suits. (DTX 193, 217, 236, 237, 267, 275, 276, 311, 312, 313-314, 448, 449, 535-540). Ms. Coleman and Ms. Snedeker argued.
	The Court addressed and heard argument with respect to Plaintiff's objection to DTX 70. Ms. Coleman and Mr. Gaudet argued. The Court sustained the objection.
4:33 p.m.	The parties are to Email the final trial exhibit lists to the Courtroom Deputy (jan_lockhart@txed.uscourts.gov).
4:34 p.m.	Mr. Gaudet addressed the Court re the Balassanian deposition. Mr. Davis responded
4:39 p.m.	The Court authorized a 1-hour deposition of Mr. Balassanian, in Austin, Texas. Costs for opposing counsel's attendance at the deposition to be paid by Defendants. The deposition is limited to the four corners of documents identified as part of the pretrial conference.
4:45 p.m.	Court adjourned.